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SENATE BILL 713

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Phil A. Griego

AN ACT

RELATING TO PUBLIC FINANCES; REVISING AND RENAMING THE  
PRIVILEGE TAX ON ATHLETIC COMPETITION; PROVIDING FOR  
COOPERATIVE AGREEMENTS WITH TRIBAL GOVERNMENTS; AMENDING THE  
PROFESSIONAL ATHLETIC COMPETITION ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 60-2A-23 NMSA 1978 (being Laws 1980,  
Chapter 90, Section 23, as amended) is amended to read:

"60-2A-23. [~~PRIVILEGE TAX~~] REGULATORY FEES ON  
PROMOTIONS. --

A. In addition to any other taxes or fees provided  
by law, there is imposed upon every promoter for the privilege  
of promoting a professional [~~contests~~] contest a [~~tax at the~~  
~~rate of~~] regulatory fee in an amount determined pursuant to the  
rules of the commission to be sufficient to cover the costs of

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1 regulating the contest; provided that the fee shall not exceed  
2 four percent of the total gross receipts of any professional  
3 contest conducted live in New Mexico.

4 B. The commission shall adopt rules [~~and~~  
5 ~~regulations~~] for the administration, collection and enforcement  
6 of the [~~tax~~] fee imposed [in] pursuant to this section.

7 C. As used in this section, "total gross receipts  
8 of any professional contest" includes:

9 (1) the gross price charged for the sale,  
10 lease or other exploitation of broadcasting, television or  
11 motion picture rights of [~~such~~] the professional contest  
12 without any deductions for commissions, brokerage fees,  
13 distribution fees, advertising or other expenses or charges;

14 (2) the face value of all tickets sold and  
15 complimentary tickets issued; and

16 (3) any sums received as consideration for  
17 holding a professional contest at a particular location. "

18 Section 2. Section 60-2A-24 NMSA 1978 (being Laws 1980,  
19 Chapter 90, Section 24) is amended to read:

20 "60-2A-24. ATHLETIC COMMISSION FUND.--The proceeds of the  
21 [~~privilege tax~~] regulatory fee on promotions and of the  
22 [~~privilege tax~~] supervisory fee on closed-circuit television or  
23 motion pictures, together with any license fees or other fees  
24 authorized [~~under~~] pursuant to the Professional Athletic  
25 Competition Act, shall be deposited with the state treasurer to

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1 the credit of the "athletic commission fund" which is hereby  
2 created. Expenditures from the athletic commission fund shall  
3 only be made on vouchers issued and signed by the person  
4 designated by the commission upon warrants drawn by the  
5 department of finance and administration in accordance with the  
6 budget approved by the department of finance and  
7 administration. "

8 Section 3. Section 60-2A-25 NMSA 1978 (being Laws 1980,  
9 Chapter 90, Section 25) is amended to read:

10 "60-2A-25. TIME OF PAYMENT OF PRIVILEGE TAX. --

11 A. Any person upon whom the [~~privilege tax~~]  
12 regulatory fee is imposed [by] pursuant to Section [23 of the  
13 Professional Athletic Competition Act] 60-2A-23 NMSA 1978  
14 shall, within seventy-two hours after the completion of any  
15 professional contest for which an admission fee is charged and  
16 received or a contribution is requested and received, furnish  
17 to the commission a written report on forms prescribed by the  
18 commission showing:

19 (1) the number of tickets sold and issued or  
20 sold or issued for [~~such~~] the professional contest;

21 (2) the amount of the gross receipts or value  
22 thereof;

23 (3) the amount of gross receipts derived from  
24 the sale, lease or other exploitation of broadcasting, motion  
25 picture or television rights of [~~such~~] the professional

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1 contest, [~~and~~] without any deductions for commissions,  
2 brokerage fees, distribution fees, advertising or any other  
3 expenses or charges; and

4 (4) such other matters as the commission may  
5 prescribe.

6 B. The commission or any of its authorized  
7 employees may inspect the books, ticket stubs or any other data  
8 necessary for the proper enforcement of the [~~privilege tax~~]  
9 regulatory fee and supervisory fee imposed [in] pursuant to the  
10 Professional Athletic Competition Act. "

11 Section 4. Section 60-2A-26 NMSA 1978 (being Laws 1980,  
12 Chapter 90, Section 26, as amended) is amended to read:

13 "60-2A-26. [~~PRIVILEGE TAX~~] SUPERVISORY FEE ON CLOSED-  
14 CIRCUIT TELECASTS OR MOTION PICTURES--REPORT TO COMMISSION.--

15 A. Any person who charges and receives an admission  
16 fee for exhibiting any live professional contest on a closed-  
17 circuit telecast or motion picture shall, within seventy-two  
18 hours after the event, furnish to the commission a verified  
19 written report on a form prescribed by the commission showing  
20 the number of tickets sold and issued or sold or issued and the  
21 gross receipts for the exhibition without any deductions.

22 B. There is imposed a [~~tax~~] supervisory fee upon  
23 the privilege of exhibiting for an admission fee any live  
24 professional contest [~~except a live professional boxing contest~~  
25 ~~held in New Mexico between the effective date of this 1997 act~~

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1 ~~and July 1, 1999]~~ on a closed-circuit telecast or motion  
2 picture. ~~[The rate of the tax imposed is]~~ A supervisory fee is  
3 imposed in an amount determined pursuant to the rules of the  
4 commission to be sufficient to cover the costs of supervising  
5 the exhibition; provided that the fee shall not exceed five  
6 percent of the gross receipts derived from the exhibition.

7 C. The ~~[privilege tax]~~ fee imposed [in] pursuant to  
8 this section shall be administered, collected, enforced and the  
9 proceeds deposited as provided in Section 60-2A-24 NMSA 1978. "

10 Section 5. Section 60-2A-27 NMSA 1978 (being Laws 1980,  
11 Chapter 90, Section 27) is amended to read:

12 "60-2A-27. PENALTY--NONPAYMENT OF FEE. --Any person who  
13 willfully attempts to evade or defeat any ~~[tax]~~ regulatory fee  
14 or supervisory fee or the payment thereof imposed ~~[by]~~ pursuant  
15 to the Professional Athletic Competition Act is guilty of a  
16 fourth degree felony. "

17 Section 6. Section 60-2A-28 NMSA 1978 (being Laws 1980,  
18 Chapter 90, Section 28) is amended to read:

19 "60-2A-28. CIVIL PENALTY.--In the case of failure due to  
20 negligence or disregard of rules and regulations of the  
21 commission, but without intent to defraud, to pay when due any  
22 amount of ~~[tax]~~ regulatory fee or supervisory fee required to  
23 be paid ~~[by]~~ pursuant to the Professional Athletic Competition  
24 Act, there shall be added to the amount two percent per month  
25 or a fraction ~~[thereof]~~ of a month from the date the tax was

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1 due or from the date the report was required to be filed, not  
2 to exceed ten percent [~~thereof~~] of the tax due. "

3 Section 7. A new section of the Professional Athletic  
4 Competition Act is enacted to read:

5 "[NEW MATERIAL] COOPERATIVE AGREEMENTS WITH TRIBAL  
6 GOVERNMENTS. --

7 A. The commission may enter into a cooperative  
8 agreement with an Indian nation, tribe or pueblo whose tribal  
9 lands lie wholly or partly in New Mexico for the exchange of  
10 information and for the reciprocal, joint or common direction,  
11 management or control of professional contests conducted, held  
12 or given in New Mexico. To be effective, an agreement must be  
13 signed by the governor.

14 B. Money collected by the commission on behalf of an  
15 Indian nation, tribe or pueblo in accordance with an agreement  
16 entered into pursuant to this section is not money of this  
17 state and shall be collected and disbursed in accordance with  
18 the terms of the agreement, notwithstanding any other provision  
19 of law.

20 C. Nothing in an agreement entered into pursuant to  
21 this section shall be construed as an assertion or an admission  
22 by either this state or by the Indian nation, tribe or pueblo  
23 that the fees of one have precedence over the fees of the other  
24 when the person, event or transaction is subject to the  
25 jurisdiction of both governments. An agreement entered into

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1 pursuant to this section shall be construed solely as an  
2 agreement between the two party governments and shall not alter  
3 or affect the government-to-government relations between this  
4 state and any other Indian nation, tribe or pueblo. "

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